

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

**POR^TUS SINGAPORE PTE LTD, AND
POR^TUS PTY LTD.,**

Plaintiffs,

v.

**SCHNEIDER ELECTRIC USA, INC.,
A DELAWARE CORPORATION,**

C.A. No. 23-977 (RGA)

Jury Trial Demanded

Defendant.

**UNOPPOSED MOTION FOR LEAVE TO FILE
FIRST AMENDED COMPLAINT**

Out of an abundance of caution, and to resolve a dispute between the parties regarding the scope of the prior extension to respond to Schneider’s motion to dismiss (Dkt. 11), Plaintiffs Portus Singapore Pte LTD and Portus Pty Ltd. (“Plaintiffs”) respectfully move for leave to file an Amended Complaint under Federal Rules of Civil Procedure 15(a)(2).

Schneider filed its motion to dismiss the original complaint on November 29, 2023.

On December 13, 2023, the Court granted Plaintiffs’ unopposed motion for extension to respond to the motion to dismiss, which extended the response date to January 12, 2024, to get past the end of year holidays and allow Portus to address the issues raised in Schneider’s motion.

On January 12, 2024, Plaintiffs filed an Amended Complaint in response to the motion to dismiss (Dkt. 16).

Following the filing of Plaintiffs’ Amended Complaint, Schneider raised the issue of whether it was proper under Federal Rules of Civil Procedure 15(a)(1) and a(2) to file an amended complaint in response to the motion to dismiss, as opposed to an answering brief.

Under D. Del. L.R. 7.1.1., counsel for the parties conferred on this issue. As stated during

the meet and confer, Portus believed the Court's December 13, 2023 Order granting Portus' requested extension constituted an extension to file an amended answer outside of the 21 day window under Federal Rules of Civil Procedure 15(a)(2), as the Parties had previously conferred about filing an amended complaint, and Portus' extension request was not limited to simply an extension for briefing. *See* Dkt.14, Unopposed Motion for Extension to Respond to Motion to Dismiss (stating "Plaintiffs seek an extension to January 12, 2024, as the new deadline for Plaintiff to respond to Defendant's motion."). Nevertheless, to avoid briefing on the issue, Plaintiffs agreed to file this request out of an abundance of caution.

There is good cause to allow Plaintiffs to amend the complaint, as Rule 15(a)(2) states that the Court "should freely give leave when justice so requires." Here, Plaintiffs filed an amended complaint in the time window it believed was allotted by the Court. Likewise, Plaintiffs amended their complaint to substantively address the concerns raised in Defendant's Motion to Dismiss, including adding additional allegations and a claim chart against Schneider products that Schneider alleged were absent in the original complaint.

During the meet and confer, Defendant informed Plaintiffs that it is unopposed to this motion.

Portus has moved at an appropriate time and granting leave would not unduly prejudice the Defendant. Therefore, Portus respectfully requests that the Court grant its motions for leave to file the Amended Complaint attached as Exhibit 1 in response to Schneider's motion to dismiss, or to deem the previously filed Amended Complaint (Dkt. 16) as properly filed under Rule 15(a)(2).

Dated: January 19, 2024

STAMOULIS & WEINBLATT LLC

/s/ Richard C. Weinblatt

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